IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 357 of 2007

Date of Decision: 27.11.2007

Ram Kishan

....Appellant

Versus

C.I.T., Faridabad

...Respondent

**CORAM: HON'BLE MR. JUSTICE M.M. KUMAR**

**HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

PRESENT: Mr. Rajiv Sharma, Advocate,
for Mr. S.K. Mukhi, Advocate,
for the appellant.

**M.M. KUMAR, J.**

This appeal filed by the assessee, under Section 260A of the Income Tax Act, 1961 (for brevity, 'the Act'), challenges order dated 12.1.2007, passed by the Income Tax Appellate Tribunal, Delhi Bench 'E', New Delhi (for brevity, 'the Tribunal'), in ITA No. 3559/Del/2004, in respect of assessment year 1996-97. The assessee has claimed that the following substantial questions of law arises for consideration of this Court:-

> "I. Whether, on the facts and circumstances of the case, the ITAT was justified in confirming the action of A.O. and of the CIT (A) in not allowing deduction as claimed by the appellant u/s 54B of the Income Tax Act, 1961 by completely ignoring the facts and

circumstances, explanations, evidences filed and on record and also the case law as relied upon by the appellant.

II. Whether, on the facts and circumstances of the case, the ITAT was justified in confirming the action of A.O. and that of the CIT (A) in not allowing legal deduction as claimed by the appellant u/s 54B of the Income Tax Act, 1961 by holding that for making such claim the purchase of property has to be in the name of the assessee himself and not in any others name including that of his family members, legal heirs, parents or benami by completely ignoring the provisions of Income Tax Act, 1961 and the law laid down by various courts of India that the provisions of Income Tax Act, 1961 are governed by the investment criteria and not simply by the name in which the asset is held or whether there is a registration deed executed or not and is thus bad in law and a perverse finding of fact and law.

III. Whether, on the facts and circumstances of the case, the findings of ITAT are perverse and against the evidences on record thus unsustainable in law.

IV. Whether the ITAT has misdirected itself in being influenced by irrelevant factors and applying erroneous criteria while deciding the issue in dispute."

After hearing learned counsel for the appellant and perusing the record we find that the issues raised in the instant appeal

are no longer *res integra* and we have already decided the same against the assessee and in favour of revenue in the case of **Jai Narayan v. ITO, Ward No. 3, Gurgaon (I.T.A. No. 447 of 2006, decided on 13.8.2007)**. In the case of Jai Narayan (supra) we have interpreted provisions of Section 54B of the Act by observing as under:-

> " In interpreting words contained in a statute, the court has not only to look at the words but also to look at the context and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words under the circumstances. The word "assessee" occurring in Section 54B must be interpreted in such a manner as to accord with the context and subject of its usage. A reading of Section 54B of the Act no where suggests that the legislature intended to advance the benefit of the said section to an assessee who purchased the agricultural land even in the name of third person. Wherever the legislature intended it to be so, it had specifically provided under the provision. The term "assessee" is qualified by the expression "purchased any other land for being used for agricultural purposes", which necessarily means that the new asset which is purchased has to be in the name of the assessee himself for seeking exemption under Section 54B of the Act. The purchase of agricultural land by the assessee in his son or grandson's name, therefore, cannot be held entitled for exemption under Section 54B of the Act."
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> We have also noticed the view of Madras High Court in the

case of **Commissioner of Income Tax v. V. Natarajan, (2006) 287 ITR 271 (Mad),** wherein the assessee after selling his residential house had purchased another residential house in his wife's name and their Lordships' of Madras High Court have concluded that the assessee in such circumstances was entitled to exemption under Section 54 of the Act. After giving our thoughtful consideration, we have showed our inability to accept the view as laid down in V. Natarajan's case (supra).

In view of the above, the questions of law posed in the instant appeal are answered against the assessee and finding no merit in the appeal, the same is hereby dismissed.

**(M.M. KUMAR)**
**JUDGE**

**(AJAY KUMAR MITTAL)**
**JUDGE**

**November 27, 2007**

Pkapoor